

**REMARKS**

Claims 60-63 are now pending and under consideration. No new matter is included in this response. The Examiner's rejections are traversed below.

**The 35 U.S.C. §102(b) Rejection:**

At page 2 of the Office Action, claims 60-63 are rejected under 35 U.S.C. §102(b) as being anticipated by WO98/13823 (equivalent to U.S. Patent 6,621,772). This rejection is respectfully traversed. Anticipation requires the presence in a single prior art reference of each feature recited in the claim, arranged as in the claim.

In an Office Action mailed February 21, 2001, the Examiner imposed a restriction requirement requiring an election of claims directed to either FIG. 3 or FIGS. "5a-5b," asserting that the species of the invention were patentably distinct. In a response to the restriction requirement filed April 13, 2001, the applicant provisionally elected to prosecute claims directed to FIG. 3 and identified the claims reading on the species of FIG. 3 of the application. In an office action mailed October 26, 2001, the Examiner made the restriction final. Thus, all claims of the present application are directed to embodiments relating to FIG. 3 of the application as a result of the restriction requirement.

Claims 60 and 62 are directed to an apparatus for and a method of controlling a servo for recording and/or reproducing information from an optical recording medium having wobbled land and groove tracks. The recording medium, for which the apparatus and method are operable, is recited in claims 60 and 62 as having individual land tracks "arranged alternately with individual groove tracks, each individual land track and each individual groove track having respective first and second wobbles, the first and second wobbles of each individual groove track being out of phase with respect to each other and in phase with the first and second wobbles, respectively, of a next individual groove track, and the first and second wobbles of each individual land track being out of phase with respect to each other." The Examiner refers to FIG. 3 of the '772 patent as describing this configuration of recording medium. However, as shown in FIG. 3 of the '772 patent, the first and second wobbles of each individual groove track are in phase with each other rather than out of phase with each other as recited in claims 60 and 62. Further, the first and second wobbles as shown in FIG. 3 of the '772 patent are out of phase out with the first and second wobbles, respectively, of a next individual groove track rather than in phase with the first and second wobbles, respectively, of a next individual groove track. In comparing FIG. 3 of the

application with FIG. 3 of the '772 patent, the distinction is clearly shown.

The Examiner refers to the description of FIG. 37 as "showing the same disk structure as that of the claimed invention" and asserts that the "difference in the groove and land phases is used in determining the wobbled even or odd groove/land tracks as described in col. 8, lines 18-60" of the '772 patent.

The description at col. 8, lines 18-60 is a continuation of a description of FIG. 7 beginning at col. 7, line 13, which is related to the disk of "embodiment 1" shown in FIG. 3 of the '772 patent. However, the Examiner has not pointed to any portion of the '772 reference which indicates if or how the apparatus described at col. 8, lines 18-60 is operative with the disk described relative to FIG. 37 of the '772 patent. Further, nothing in the portion at col. 8, lines 18-60 discloses determining "whether the wobble signal corresponds to a land or a groove based on determining a phase of the wobble signal and which of the first and second light signals includes the wobble signal" and outputting a "determination signal," as claimed in claims 60 and 62.

Claims 61 and 63 are deemed to be patentable at least for similar reasons set forth above regarding claims 60 and 62.

It is respectfully requested that the 35 U.S.C. §102(b) rejection be withdrawn.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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